

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO. 8423 OF 2004

Mrs. Meena Anand Marathe Petitioner.

versus

State of Maharashtra and ors. Respondents.

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Shri L.M. Acharya for the petitioner.
Shri S.R. Nargolkar AGP for the State.
Shri R.K.Sharma with D.A. Dube for Union of India.

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**CORAM ; V.G.PALSHIKAR &
SMT. NISHITA MHATRE, JJ.**

DATED; 14TH FEBRUARY 2005.

P.C.;

1. By this petition, the petitioners seeks a mandamus directing the respondents to grant the petitioner a valid passport, she being the citizen of India.

2. Notice why the petition be not disposed of at the admission stage was issued and in the reply it is pointed out that because petitioner's earlier stay is not regular, her request for passport cannot be considered. The reply therefore pre-supposes her earlier entry irregular and was required to be regularised. The provisions of Article 5 of the Constitution of India are very clear, which reads as under:

5. Citizenship at the commencement of the Constitution -

At the commencement of this Constitution every person who has his domicile in the territory of India and;

a) who was born in the territory of India; o

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b) either of whose parents was born in the

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territory of India ; or

c) who has been ordinarily resident in the

territory of India for not less than five

years immediately preceding such

commencement,

shall be a citizen of India."

The petitioner having been born to the parents, both of whom were Indian citizens by birth and domiciled, she became citizen of India by birth, even though the birth has taken place outside the teritorial limit of Union of India. That being the position in law, it cannot be disputed. We see no reason why there should be any further delay in granting appropriate pass port. We

therefore direct the respondents to issue valid
passport to the petitioner within a period of one month
from the receipt of this order. Petition accordingly
disposed of.
